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10 Attorneys for Defendants  
11 FUJITSU LIMITED AND  
12 FUJITSU MICROELECTRONICS AMERICA, INC.

FILED

DISTRICT COURT OF GUAM

MAR - 5 2007 mba

MARY L.M. MORAN  
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF GUAM

13 NANYA TECHNOLOGY CORP. and  
14 NANYA TECHNOLOGY CORP. U.S.A.,

CIVIL CASE NO. 06-CV-00025

15 Plaintiffs,

*lmy*  
[PROPOSED] SCHEDULING ORDER

16 vs.

17 FUJITSU LIMITED, FUJITSU  
18 MICROELECTRONICS AMERICA, INC.,

Defendants.

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1 Pursuant to Rule 16 and 26(f) of the Federal Rules of Civil Procedure, and Local Rule  
2 16.1 for the District Court of Guam, the Defendants hereby submit the following Proposed  
3 Scheduling Order:

4 1. The nature of this case is as follows:

5 In 1999, Fujitsu Limited (a Japanese corporation referred to herein as "Fujitsu") began  
6 discussion with Nanya Technology Corporation (a Taiwanese corporation referred to herein as  
7 "Nanya") with regard to Nanya licensing certain patents from Fujitsu. In 2005, Fujitsu initiated a  
8 proceeding in Japan against Nanya alleging patent infringement. Efforts to settle that case have  
9 been ongoing in Tokyo District Court.

10 Nanya filed this action on September 13, 2006 against Fujitsu and its U.S. subsidiary,  
11 Fujitsu Microelectronics America, Inc. ("FMA").

12 Fujitsu and FMA then brought suit in the Northern District of California against Nanya  
13 and its U.S. subsidiary Nanya Technology Corp. USA ("Nanya USA"). The Northern District is  
14 the principle place of business for FMA and for Nanya USA.

15 On November 17, 2006, Nanya amended its complaint to add additional claims and to add  
16 Nanya USA as a co-plaintiff.

17 The complaint has been served on FMA, but service on Fujitsu is disputed.

18 2. The posture of this case is as follows:

19 a. The following motions are on file:

20 Fujitsu filed objections to the Magistrate Judge's Order that permitted alternative service  
21 of the original complaint upon it under Fed. R. Civ. P. 4(f). By Order dated January 25, 2007  
22 Fujitsu's objections were overruled.

23 FMA and Fujitsu filed motions to dismiss or transfer to the Northern District of California  
24 or for a more definite statement on December 5, 2006 and December 18, 2006, respectively. The  
25 Court has set a hearing date for these motions on March 22, 2007.

26 Nanya has filed two motions to compel responses to the same set of document requests  
27 served on FMA on Dec. 14, 2006. The first motion to compel was filed on January 17, 2007 and  
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1 the second motion to compel was filed on February 9, 2007. FMA filed an opposition to the first  
2 motion to compel on February 1, 2007. FMA's response to the second motion to compel is due  
3 on February 23, 2007. Nanya also served a motion to clarify an Order from the Magistrate dated  
4 December 11, 2006. FMA filed an opposition to this motion on February 1, 2007. Nanya has  
5 requested argument on its second motion to compel on March 2, 2007 and Defendants have  
6 agreed to this date. Defendants have further asked the Court to schedule argument on the first  
7 motion to compel and the motion to clarify the Magistrate's order on this same date. Nanya does  
8 not agree that argument is necessary on the first motion to compel and on the motion to clarify the  
9 Magistrate's order but, if there is argument, do not object to having the argument on March 2,  
10 2007. A hearing date has not been set for this motion.

11 Nanya filed a motion for entry of a protective order on January 30, 2007. Defendants  
12 filed an opposition to the motion and requested entry of an alternate protective order. Additional  
13 discussions between counsel has resulted in an agreement on the terms of a protective order and  
14 the parties expect a stipulated order will be submitted shortly. Thus, this motion may be moot.

15 Nanya filed a motion for leave to serve 900 interrogatories and 900 requests for admission  
16 on January 30, 2007. Defendants filed an opposition on February 13, 2007. Defendants have  
17 requested that a hearing on this motion also be set for March 2, 2007. Nanya does not agree that  
18 argument is necessary on this motion but, if there is argument, does not object to having the  
19 argument on March 2, 2007. A hearing date has not been set for this motion.

20 b. The following motions have been resolved: None except Fujitsu's  
21 Objections to the Magistrate's Order concerning alternative service as noted above and  
22 procedural motions.

23 c. The following discovery has been initiated: Nanya and Nanya USA served  
24 FMA with a first request for production of documents on December 14, 2006. These discovery  
25 requests are the subject of two motions to compel by Nanya, as noted above. In addition, on  
26 January 31, 2007, Plaintiffs provided Defendants with "early" copies of sixteen sets of  
27 voluminous merits-based discovery requests, but have not yet formally served those requests. On  
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1 February 9, 2007, Plaintiffs served sets of discovery requests on Fujitsu and FMA. On February  
2 9, 2007 Defendants were informed that Nanya has served or is attempting to serve third party  
3 subpoenas for documents on Hyundai Autonet Pontus America Corp, Nikon Americas, Inc.,  
4 Epson America, Inc., and Nikon, Inc.

5 Nanya has requested the depositions of Mr. Shigeru Kitano of Fujitsu and Mr. Michael  
6 Moore of FMA. FMA has agreed to produce Mr. Moore in California on February 27, 2007. The  
7 parties are trying to work out a date and location for Mr. Kitano's deposition.

8 Defendants request that merits based discovery be stayed until such time as the Court  
9 decides Defendants' motions to dismiss based on, *inter alia*, lack of personal jurisdiction.  
10 Plaintiffs oppose this stay.

11 3. All motions to add parties and claims shall be filed on or before: June 1, 2007.

12 4. All motions to amend pleadings shall be filed on or before: September 3, 2007.

13 5. Status of Discovery. The Discovery Plan attached hereto is adopted and  
14 incorporated as part of this Scheduling Order.

15 6. The parties shall appear before the District Court on February 21, 2007 at 10:00  
16 a.m. for the Scheduling Conference, or at such date and time as the Court shall determine. The  
17 parties are working towards a joint stipulation to request that this date be moved to March 2, 2007  
18 at 10:00 a.m.

19 7. The discovery cut-off date (defined as the last day to file responses to discovery)  
20 is: February 1, 2008.

21 8. The anticipated discovery motions are: None at this time.

22 a. All discovery motions shall be filed on or before: January 4, 2008.

23 b. The anticipated dispositive motions are: Motions to dismiss, motions for  
24 summary judgment.

25 All dispositive motions shall be filed on or before: June 27, 2008. Claim  
26 construction issues shall be addressed along with any dispositive motions.

9. The prospects of settlement are: The parties have been ordered to participate in mediation in connection with the related California case on or before June 1, 2008. Prospects for settlement are unknown at this time.

10. The Preliminary Pretrial Conference shall be held on or before: December 1,  
at 10:00 A.M. *3rd fl*  
2008. This date is submitted for the Court's convenience if presently needed; however, the  
parties' agreement is that this date will be selected when closer to trial.

11. The parties' pretrial materials, discovery materials, witness lists, designations and exhibits lists shall be filed on or before: December 15, 2008. This date is submitted for the Court's convenience if presently needed; however, the parties' agreement is that this date will be selected when closer to trial.

12. The Proposed Pretrial Order shall be filed on or before: December 15, 2008. This date is submitted for the Court's convenience if presently needed; however, the parties' agreement is that this date will be selected when closer to trial.

13. The Final Pretrial Conference shall be held on or about: December 22, 2008. This date is submitted for the Court's convenience if presently needed; however, the parties' agreement is that this date will be selected when closer to trial.

14. The trial shall be held on: January 12, 2009 at 9:00 A.M. *any*

15. The Plaintiffs have filed a request for a jury trial on claims that can heard by a jury. The parties anticipate the possibility of motion practice as to which claims can properly be heard by a jury.

16. It is anticipated that it will take 16 days to try this case.

17. The names of counsel on this case are:

Attorneys for Plaintiffs

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15  
16 18. The parties have been ordered to participate in mediation in connection with the  
17 related California case. The parties will report the results of the mediation to this Court.

18 19. The parties present the following suggestions for shortening trial: None at this  
time.

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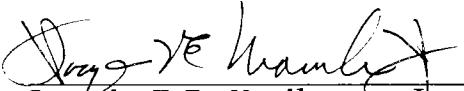
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20. The following issues will also affect the status or management of this case: None  
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at this time.

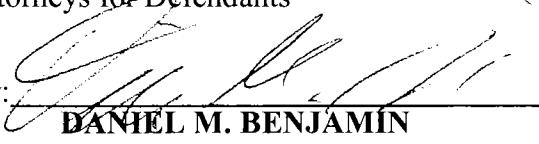
3 SO ORDERED this 2nd day of March, 2007.  
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5   
6 Joaquin V.E. Manibusan, Jr.  
7 U. S. Magistrate Judge, District Court of Guam

8 APPROVED AS TO FORM AND CONTENT:  
9

10 Date: 2/16/07

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13 Attorneys for Defendants  
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15 By:   
16 DANIEL M. BENJAMIN  
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18 Dated: 2/16/07

19 TEKER, TORRES & TEKER, P.C.  
20 Attorneys for Plaintiffs  
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22 By:   
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RECEIVED  
FEB 16 2007  
29 DISTRICT COURT OF GUAM  
30 HAGATNA, GUAM